

West Virginia Board of Medicine Quarterly Newsletter

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2003 Legislative Update

Committee Substitute for House Bill 2122-This bill reforms the medical malpractice system. It has been signed into law by the Governor and is currently in effect. In addition to requiring the Board of Medicine to collect a \$1000 assessment from physicians on July 1, 2003, in order to provide policyholder surplus for the Board of Risk and Insurance Management Physicians' Mutual Insurance Company Account, (see related Notice on p. 2 of this Newsletter) the law requires the Board to initiate an investigation if it receives notice that three or more judgements, or any combination of judgements and settlements resulting in five or more unfavorable outcomes arising from medical professional liability have been rendered or made against a physician or podiatrist within a five-year period. The prior law specified five judgements or settlements within the most recent five-year period could cause the investigation to begin but each settlement or judgement was to be in an amount of \$50,000 or more. The new law removes the monetary cap.

Also, where disciplinary action occurs against a physician or podiatrist for three or more incidents during a five-year period, the practitioner shall be required to practice under the direction of a Board-approved physician or podiatrist for a specified period of time to be set by the Board.

Committee Substitute for Committee Substitute for Senate Bill 170-This is the informed consent abortion bill, and it becomes effective on May 24, 2003. Forms prepared by the Department of Health and Human Resources will be prepared and provided to all licensed physicians, which reporting forms are to be completed and submitted to DHHR with required data. Late or incomplete reports are subject to a late fee and subsequently to civil contempt. Anyone may complain to the Board of Medicine about an M.D. who violates the law, and for a first time willful violation the physician shall be reprimanded, for the second such violation, the physician's license will be revoked.

Revised Committee Substitute for Senate Bill 329-This bill was vetoed by the Governor. It contained the Board of Medicine rule updating the continuing medical education (CME) requirements for physician assistants to conform with NCCPA requirements for fifty (50) hours of Category I CME and fifty (50) hours of Category II CME during each two-year cycle. Accordingly, this requirement is not effective yet in State Law. The bill contained as well a revised Board of Pharmacy rule on controlled substance monitoring. However, because of the veto, neither the revised rule nor the rule printed in this prior Newsletter is effective at this time. Questions about this should be directed to the Board of Pharmacy at 558-0558.

UNIFORM CREDENTIALING OF HEALTH CARE
PRACTITIONERS
EFFECTIVE DATE JULY 1, 2003

In 2001, the West Virginia Legislature passed a bill requiring the implementation of uniform credentialing of health care practitioners in this State. The bill required the development of uniform forms for credentialing and recredentialing and a list of the health care practitioners subject to the forms to be included within a joint rule proposed by the West Virginia Department of Health and Human Resources and the West Virginia Insurance Commissioner. The rule and forms were authorized by the Legislature on March 5, 2003. *The effective date of the rule and forms is July 1, 2003.* On and after that date, only the uniform forms may be used when credentialing or recredentialing health care practitioners. The forms are available on the West Virginia Insurance Commission web site (www.state.wv.us/insurance).

NOTICE:
UPCOMING \$1000 ASSESSMENT

In the 2003 Legislative Session, the Legislature enacted and the Governor signed into law a bill which provides that on July 1, 2003, there will be a one-time assessment

made by the West Virginia Board of Medicine of all licensed physicians in order to fund the Board of Risk and Insurance Management Physicians' Mutual Insurance Company Account for the company's use as initial capital and surplus. The following physicians are exempted from the assessment:

1. A faculty physician who meets the criteria for full-time faculty who is a full-time employee of a school of medicine or osteopathic medicine in West Virginia, and who does not maintain a private practice;
2. A resident physician who is a graduate of a medical school or college of osteopathic medicine enrolled and who is participating in an accredited full-time program of post-graduate medical education in this state;
3. A physician who has presented suitable proof that he or she is on active duty in armed forces of the United States and who will not be reimbursed by the armed forces for the assessment;
4. A physician who receives more than fifty percent of his or her practice income from providing services to a federally qualified health center; and
5. A physician who practices solely under a special volunteer medical license authorized by the West Virginia Board of Medicine.

LICENSURE RENEWALS

On Friday, May 16, 2003, licensure renewal applications will be mailed certified to all medical doctors whose last names begin with the letters M through Z and all podiatrists, A through Z. Renewal applications will be mailed to the address of record on file at the Board offices. The address of record is the address designated by each physician as his or her preferred mailing address. It is the responsibility of the licensee to keep this office apprised of any address change. In the event of a change of address, the licensee must notify the Board of the change, in writing. (See Change of Address form on page 9).

For a medical/podiatric license to remain valid and in force, the fully completed renewal application and fee must be RECEIVED in the Board offices BEFORE Monday, June 30, 2003, at 5:00 p.m. The physician's medical/podiatric license will be suspended if the required continuing medical/podiatric education has not been obtained (see articles on page 4 & 5).

In order to avoid automatic suspension of a medical/podiatric license, a physician must either:

- 1) complete the six-page renewal application to renew the license; or
- 2) complete the one-page certification included in the renewal application packet to lapse/
expire the license.

This information must be completed and RECEIVED in the Board offices BEFORE Monday, June 30, 2003, at 5:00 p.m.

If a licensee does not receive a renewal application, it is his or her responsibility to inform the Board and to request a duplicate. Please contact the Board's Renewal Coordinator at (304)558-2921, Ext. 218, or fax your written request for a duplicate application to (304)558-2084. A duplicate copy of the renewal application will be mailed to the licensee. Illegible and incomplete applications, as well as those received without the fee, will be returned. The Board will be unable to finalize the processing of any application that is not complete. Completion of the renewal application is the responsibility of the licensee.

Every application is computer-generated to include personalized information previously reported by the physician. However, each physician will need to review this information to ensure that it remains accurate. Each physician **MUST** provide a telephone number. The Board anticipates that this method of renewal will reduce the time necessary for the physician to complete the application.

CONTINUING EDUCATION
SATISFACTORY TO THE BOARD:
MEDICAL DOCTORS

Pursuant to 11 CSR 6 2.2, in order to acquire continuing medical education satisfactory to the Board, a physician may:

- A. Take continuing medical education designated as Category I by the American Medical Association or the Academy of Family Physicians, or
- B. Teach medical education courses or lecture to medical students, residents, or licensed physicians, or serve as a preceptor to medical students or residents: Provided, that a physician may not count more than twenty (20) hours in this category toward the required fifty (50) hours of continuing medical education.

- C. Sit for and pass a certification or recertification examination of one of the American Board of Medical Specialties member boards, and receive certification or recertification from said board: Provided, that a physician may not count more than twenty-five (25) hours in this category toward the required fifty (50) hours of continuing medical education. Certification or recertification from any board other than one of the American Board of Medical Specialties member boards does not qualify the recipient for any credit hours of continuing medical education.

There are no other types or categories of continuing medical education satisfactory to the Board.

(For your information, every physician enrolled in an ACGME approved postgraduate training program automatically receives fifty (50) continuing medical education hours, AMA Category I, per year. Check with your program director.)

WEST VIRGINIA CODE §30-1-7a states:

Each person issued a license to practice medicine and surgery by the West Virginia Board of Medicine shall complete two (2) hours of continuing education coursework in the subject of end-of-life care including pain management. The two (2) hours shall be part of the total hours of continuing education required and not two (2) additional hours.

CONTINUING EDUCATION
SATISFACTORY TO THE BOARD:
PODIATRISTS

Pursuant to 11 CSR 6 2.4, in order to acquire continuing podiatric education satisfactory to the Board, a podiatrist may:

- A. Take continuing podiatric education approved by the council on podiatric medical education, or
- B. Take continuing podiatric education given under the auspices of the podiatry colleges in the United States, or
- C. Take continuing medical education designated as Category I by the American Medical Association or the Academy of Family Physicians.
- D. Take continuing podiatric education given under the auspices of the West Virginia Podiatric Medical Association.
- E. Teach podiatric education courses or lectures in podiatry taught to podiatric students, residents, or licensed podiatrists, or serve as a preceptor to podiatric students or residents: Provided, that a podiatrist may not count more than twenty (20) hours in this category toward the required fifty (50) hours of podiatric education.

There are no other types or categories of continuing podiatric education satisfactory to the Board.

WEST VIRGINIA CODE §30-1-7a states:

Each person issued a license to practice podiatry by the West Virginia Board of Medicine shall complete two (2) hours of continuing education coursework in the subject of end-of-life care including pain management. The two (2) hours shall be part of the total hours of continuing education required and not two (2) additional hours.

Board Member Profile
Vettivelu Maheswaran, M.D.

Governor Wise appointed Vettivelu Maheswaran, M.D. (Dr. Mahe) to the Board of Medicine in November, 2002. Dr. Mahe has practiced obstetrics and gynecology for the last twenty seven years, seventeen of those years as the only OB/GYN in Jefferson County where he is currently on active staff at Jefferson Memorial Hospital in Ranson. At Jefferson Memorial Hospital he has held the position of President of the Medical Staff and Chairman of the Credential and By-Laws Committee, as well as assisting with many of the hospital's development projects.

Dr. Mahe has been associated with Bolivar/Harpers Ferry Family Medicine and was the co-founder and first Director of the Jefferson Maternity Center, where he trained Family Medicine Residents in obstetrics. He has delivered over four thousand babies in Jefferson County, including the last five years with the Residents' program.

Dr. Mahe's involvement with West Virginia medicine has continued beyond the Jefferson County level. He retired in October, 2002, from the position of Associate Professor at the West Virginia University School of Medicine and is now serving as a member of the West Virginia Board of Medicine.

Dr. Mahe is voluntarily recertified (2002) by the American Board of Obstetrics and Gynecology after his certification in 1975, and he is a fellow member of the American College of Obstetricians and Gynecologists, the American College of Surgeons, and a fellow member of the Royal College of Obstetricians and Gynecologists of Britain.

Born in Sri Lanka, Dr. Mahe graduated from the University of Poona in Poona, India, and from Kasturba Medical College in Mangalore, India, in 1963. Dr. Mahe trained in the United Kingdom and in the United States at Saint Joseph Hospital in Loraine, Ohio, and the Lewis-Gale Clinic in Roanoke, Virginia. He now resides in Charles Town, West Virginia, with his wife Vasuki. They have two married children

BOARD ACTIONS

AMSBARY, HARRY L., M.D. – Parkersburg, WV (02/14/03)

WV License No. 11139

Board Conclusion: Relating to dishonorable, unethical, and unprofessional conduct.

Board Action: License SURRENDERED effective February 20, 2003.

GARRIEL, BRENN ISIDRO, D.P.M. – Youngstown, OH (03/18/03)

WV License No. 00300

Board Conclusion: Relating to having a license in another state subjected to disciplinary action.

Board Action: Issued a PUBLIC REPRIMAND and to pay a CIVIL FINE of \$1,000 to the State of West Virginia by December 15, 2003.

HOOVER, KATHERINE ANNE, M.D. - Lost Creek, WV (12/18/02)

WV License No. 11571

Board Conclusion: Unprofessional and unethical conduct; exercised influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity.

Board Action: License revoked, revocation immediately stayed, placed on PROBATION for five (5) years, subject to conditions.

Court Action: By ORDER entered November 16, 2001, the Circuit Court of Harrison County granted Dr. Hoover's Motion for Stay during pendency of her appeal. By ORDER entered December 18, 2002, the Circuit Court of Harrison County ordered that the ORDER entered by the Board on November 9, 2001, be REVERSED and ordered that Dr. Hoover's license to practice medicine and surgery in the State of West Virginia be REINSTATED without any restrictions thereon.

LAU, STEPHEN C. K., M.D. – Elkins, WV (02/24/03)

WV License No. 16413

Board Conclusion: Relating to failure to practice medicine with reasonable skill and safety or with that level of care, skill, and treatment which is recognized by a reasonable, prudent physician engaged in the same or similar specialty as being acceptable under similar conditions and circumstances.

Board Action: Dr. Lau may not perform gastrointestinal endoscopy except he may perform rigid anoscopy and rigid proctoscopy as part of other procedures in the operating room of Davis Memorial Hospital, Elkins, West Virginia, or in the operating room of any other hospital in the State of West Virginia at which he now has, or may hereafter have, staff privileges.

MARBACH, JAMES CHRISTIAN, M.D. – Houston, TX (02/27/03)

WV License No. 14331

Board Conclusion: Relating to having a license disciplined in another jurisdiction.

Board Action: License SURRENDERED effective February 18, 2003.

MOSSBURG, WILLIAM LEE, M.D. – Lewisburg, WV (03/12/03)

WV License No. 09220

Board Conclusion: Failure to successfully complete and accurately report his continuing medical education requirements by falsely and fraudulently misrepresenting the same in attempting to renew his license; engaged in unprofessional conduct; and committing acts contrary to honesty, justice or good morals.

Board Action: License REVOKED effective March 20, 2003, and shall pay to the Board the administrative costs of the proceeding.

MUPAS, ROGELIO SORIANO, M.D. – Des Moines, WA (03/08/03)

WV License No. 10234

Board Conclusion: Relating to having a license acted against in another jurisdiction.

Board Action: License SURRENDERED effective March 7, 2003.

PORTER, CHARLES VERNON, M.D. – Martins Ferry, OH (02/28/03)

WV License No. 9136

Board Conclusion: Relating to being found guilty of a crime which directly relates to the practice of medicine and unprofessional and unethical conduct.

Board Action: License SUSPENDED for a period of thirty (30) days, but said suspension was STAYED conditioned upon Dr. Porter completing 240 hours of community health service through Wheeling Health Right, Inc., during 2003, said 240 hours to be in addition to and separate from the 240 hours of community health service ordered by the Circuit Court of Ohio County in October, 2002.

SANTOS, RODOLFO DELROSARIO, M.D. – Meyersdale, PA (03/08/03)

WV License No. 17671

Board Conclusion: Relating to having a license acted against in another jurisdiction.

Board Action: License SURRENDERED effective March 3, 2003.

SHAFFER, DAVID JAMES, M.D. – Wellsburg, WV (03/05/03)

WV License No. 17424

Board Conclusion: Relating to practicing medicine with that level of care, skill, and treatment recognized by a reasonable, prudent physician engaged in a similar specialty as being acceptable under similar conditions and circumstances.

Board Action: Dr. Shaffer will not engage in any solo practice and will not perform any general surgery. Dr. Shaffer may perform any and all procedures as authorized by the Harrison Community Hospital in Ohio.

UY, MANUEL T., M.D. – Madison, WV (01/13/03)

WV License No. 9267

Board Conclusion: Relating to failure to keep written records justifying the course of treatment and failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonable, prudent physician engaged in the same or similar specialty as being acceptable under similar conditions and circumstances.

Board Action: PUBLICLY REPRIMANDED for deficiencies in medical diagnosis, treatment, and record keeping; CIVIL FINE in the amount of \$2,500; and to successfully complete a Board-approved course in record keeping.

WARVARIV, EUGENE, M.D. – Daniels, WV (02/25/03)

WV License No. 08686

Board Conclusion: Relating to renewing a license to practice medicine and surgery by misrepresentation and making a false statement in connection with a licensure application.

Board Action: License SURRENDERED effective February 25, 2003.

NEWSLETTER

The Board's newsletter will no longer be available via e-mail. However, the newsletter will continue to be available through the Board's web site, www.wvdhhr.org/wvbom.

PHYSICIAN ASSISTANT LICENSURE RENEWAL UPDATE

On March 31, 2003, four (4) physician assistants were notified that their licenses were suspended for failure to notify the Board that required continuing medical education had been obtained. The suspensions could have been avoided if the renewal forms had been submitted on time!

REMINDER TO PHYSICIAN ASSISTANTS AND SUPERVISING PHYSICIANS

Pursuant to Board Rule 11 CSR 1B 9.2, the supervising physician of a physician assistant is responsible for notifying the Board in writing of any termination of his or her supervisory relationship with a physician assistant within ten (10) days of the termination. Pursuant to Board Rule 11 CSR 1B 13.19, the physician assistant is required to notify the Board of any change in employment within thirty (30) days. Don't Forget!

BOARD WELCOMES NEW EMPLOYEE

There is a new staff member at the Board of Medicine. Sheree Melin is the Board's Verification Coordinator. Sheree came to the State of West Virginia after working in Ohio for the past several years. The Board is pleased to have Sheree as a staff member.

WHAT IS A PHYSICIAN ASSISTANT?

P.A. stands for physician assistant. A P.A. is a graduate of a specific accredited training program and is considered qualified in the State of West Virginia to provide treatment for patients, always under the supervision and direction of a physician. The supervising physician is not required to be present at the location where treatment is provided by the P.A.

Physician Assistants who sign their names "PA-C" are certified by the National Commission for the Certification of Physician Assistants, and complete a re-certification examination every six years. Physician Assistants are licensed by the West Virginia Board of Medicine, which requires 100 hours of continuing medical education for P.A.'s every two years.

In accordance with a specific job description approved by the Board, physician assistants examine patients, take medical histories, order and interpret diagnostic tests, and in many cases are authorized to prescribe medication. If additional information is desired about any specific job description, the West Virginia Board of Medicine may be contacted at (304)558-2921.

Adopted by the West Virginia Board of Medicine November 4, 2002

FDA APPROVAL OF BUPRENORPHINE FOR OFFICE-BASED OPIOID ADDICTION TREATMENT

The U.S. Food and Drug Administration announced approval of buprenorphine for use in treating opioid addiction in the physician's office on October 8, 2002. This new treatment modality, authorized by the Drug Addiction Treatment Act (DATA), allows qualified physicians to prescribe FDA approved Schedule III, IV, and V medications for office-based treatment of opioid-dependent patients. In order to assist physicians considering office-based treatment under the new law, the Federation of State Medical Boards has developed *Model Guidelines for Opioid Addiction Treatment in the Medical Office* in cooperation with Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment (SAMHSA/CSAT). The Federation's guidelines are available at www.fsmb.org under policy documents.

Treatment for opioid dependence has traditionally been provided in federally regulated opioid treatment programs with limited involvement by physicians not employed in such programs. In contrast, office-based treatment is a new model that allows individual physicians to treat opioid addiction in their practice and thus creates a new regulatory role for the state medical board.

DATA stipulates that qualified physicians must demonstrate required qualifications as defined in the law and be licensed in the state(s) where the physician practices, and hold an addiction-related certification from the American Board of Medical Specialties, the American Osteopathic Association or the American Society of Addiction Medicine. Physicians may also qualify if they receive at least eight (8) hours of training, provided by designated medical and specialty organizations, in the care of opioid-dependent patients. Additionally, the DATA requires that physicians have the capacity to refer patients for counseling and appropriate ancillary services. Each physician or practice is allowed to treat a maximum of 30 such patients simultaneously. Additional qualifications may be enacted by individual states.

In order to offer office-based opioid addiction treatment, physicians must apply for a waiver through SAMHSA. To obtain a waiver, the physician must submit written notification to SAMHSA of their intent to provide office-based treatment, certifying the physician's qualifications and listing his/her DEA registration number. SAMHSA will notify the DEA whether a waiver is granted. Upon approval of the waiver, DEA will issue the qualifying physician an identification number. SAMHSA is required to act on a waiver application within 45 days. If a physician finds it necessary to prescribe or dispense

approved drugs for maintenance or detoxification treatment for an individual patient in an emergency situation prior to approval of a waiver application, the physician must notify SAMHSA and the DEA of the physician's intent to provide such treatment.

Under DATA, physicians are specifically prohibited from delegating prescribing opioids for detoxification and/or maintenance treatment to non-physicians. Physicians are advised to consult DEA regulations, 21 CFR, Part 1300 to end, and the DEA Physicians Manual, www.deadiversion.usdoj.gov, guidelines issued by the state medical board, and other applicable state regulations relating to issuance of controlled substances prescriptions.

WEST VIRGINIA BOARD OF MEDICINE
2003 MEETINGS

May 12
July 14
September 8
November 10

All meetings begin at 9:00 am

WV Board of Medicine



101 Dee Drive
Charleston, WV 25311
Phone: 304-558-2921
Fax: 304-558-2084
www.wvdhhr.org/wvbom

West Virginia Board of Medicine Board Members

Angelo N. Georges, M.D., President
Wheeling

Catherine Slemp, M.D., M.P.H., Secretary
Charleston

Rev. Richard Bowyer
Fairmont

Ms. Doris M. Griffin
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Point Pleasant

Carmen R. Rexrode, M.D., Vice President
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R. Curtis Arnold, D.P.M.
South Charleston

Ahmed D. Faheem, M.D.
Beckley

M. Khalid Hasan, M.D.
Beckley

Vettivelu Maheswaran, M.D.
Ranson

Lee Elliott Smith, M.D.
Princeton

Kenneth Dean Wright, P.A.-C.
Huntington

Ext

Staff of the West Virginia Board of Medicine (304) 558-2921

227	Ronald D. Walton, M.A.	Executive Director
214	Deborah Lewis Rodecker, J.D.	Counsel
212	M. Ellen Briggs	Administrative Secretary to the Executive Director
222	Leslie A. Higginbotham	Paralegal and Investigator
215	Lynn Hill	Information Systems Coordinator
210	Charlotte A. Jewell	Receptionist/Physician Assistant Coordinator
221	Crystal Lowe	Licensure Analyst
224	Sheree Melin	Verification Coordinator
211	Janie Pote	Administrative Secretary to Legal Department
220	Deb Scott	Fiscal Officer
213	Teri Wolfe	Complaints Coordinator

CHANGE OF ADDRESS FORM

WV License No: _____

Date of _____

Change:

Name of Licensee: _____

PLEASE CHECK ONLY ONE PREFERRED MAILING ADDRESS:

(The preferred mailing address is the licensee's address of record, which is public information.)

(Note that telephone numbers are not considered public information.)

() Principal Office or Work Location *ONLY CHECK ONE* () Home Address

Telephone: _____

Telephone: _____

Signature: _____

Date: _____

Original Signature of Licensee is Required

Mail completed form(s) to: **West Virginia Board of Medicine**

101 Dee Drive, Suite 103 · Charleston, WV 25311

Fax copies not accepted.

By law, you must keep this office apprised of any and all address changes